of two citizens of Mexico, and the testimony of the Foreign Law Librarian of the Los Angeles County Law Library who qualified as an expert on the laws of Mexico. The District Court ordered that all exhibits and the transcript of proceedings held before the United States Commissioner to be received in evidence in the habeas corpus hearing.

The pertinent provisions of the Criminal Code of the Republic of Mexico relating to the offenses set forth in the amended complaint are:

"ARTICLE 219: To the person who commits the crime of peculation there shall be applied from six months to twelve years of imprisonment, a fine from ten to three thousand pesos, and destitution from employment or trust, and inhabilitation for from two to six years."

"ARTICLE 220: Every person entrusted with the public service—of the State or an autonomous organization, commits the crime of peculation, even though it be in commission for a limited time and without his having the capacity of an official, who, for personal or alein uses, diverts, from their purpose, money, securities, real estate or any other thing pertaining to the State, to an autonomous organization, or to an individual, if for reasons of his capacity he should have received them in administration, in deposit or for any other cause."

"ARTICLE 243: The crime of forgery of public or private documents shall be punished with reclusion in jail for six months to three years and the fine of fifty to one thousand pesos."

"ARTICLE 244: The crime of forgery of documents is committed by any one of the following means:

"I.—By affixing a false signature or flourish, even though it be imaginary, or altering a true one.

"II.—By unduly profiting from another's signature or flourish in blank, drawing up an obligation, a libera-

tion or any other document that may jeopardize the property, the honor, the person or the reputation of another, or cause some prejudice to society, to the State or to a third party.

"III.—By altering the context of a true document, after it has been concluded or signed, if this should change its sense respecting any circumstance or point that is substantial thereto, whether adding, amending or erasing in all or in part one or more words or clauses, or varying the punctuation.

"IV.—By varying the date or any other circumstance relative to the time of the execution of the act expressed in the document.

"V.—By attributing to himself by the person who draws up a document, or attributing the person in whose name he draws it a name or an investiture, quality or circumstance which he does not possess, or that it is necessary for the validity of the act concerned.

"VI.—By writing a document in terms that change the convention executed in a diverse one, wherein the statement or profession of the grantor, the obligations which he purported to contract, or the rights which he should have acquired are changed.

"VII.—By altering clauses or statements, or asserting as true facts which are false, or as confessed those which are not, if the document whereon they are written down should be drawn up in order to make them appear as a proof thereof.

"VIII.—By issuing a supposed testimony of documents that do not exist; taking it from another existing one that lacks the legal requisites, falsely supposing that it has them; or from another that does not lack them, but adding or suppressing in the copy something which means a substantial deviation.

"IX.—By altering an expert translator or paleographer the contents of a document when translating or deciphering it."

On this appeal, appellant specifies as errors that the District Court erred:

1. In applying an incorrect standard to determine the sufficiency of the evidence presented to the United States Commissioner;

2. In failing to find the United States Commissioner abused his discretion in finding the evidence sufficient to certify appellant extraditable an failing to find there was no showing before the Commissioner of probable cause to believe that appellant committed any offense within the treaty with the Republic of Mexico;

3. In failing to find either the matters presented before the United States Commissioner taken as a whole, establish that the statute of limitations of the Republic of Mexico had run on the offenses charged, or that the offenses charged against appellant did not fall within the Extradition Treaty; and

4. In failing to find appellant had been denied due process of law and a fair hearing before said United States Commissioner by said Commissioner's refusal to authorize the taking of depositions in the Republic of Mexico.

On this appeal it is not questioned that the United States Commissioner had jurisdiction to conduct the hearing provided for by 18 U.S.C. § 3184.

Appellant's contention that the District Court applied an incorrect standard in determining the sufficiency of the evidence presented to the United States Commissioner to support his order of extradition is based on the District Court's statement that the test was "whether there was any evidence warranting the finding of probable cause to

believe the accused was guilty." In this connection the District Court stated:

> "Upon an examination of the transcript this court is satisfied that there was evidence before the Commissioner upon which he could come to the conclusion that there was probable cause to believe that defendant should be held to answer the charge."

In our view the test laid down by the District Court, in the above quoted statements of the District Court, to determine the sufficiency of the evidence which was before the United States Commissioner is correct. In *Fernandez* v. *Phillips*, 268 U.S. 311 (1925), the Supreme Court stated at page 312:

> "The alleged fugitive from justice has had his hearing and habeas corpus is available only to inquire whether the magistrate had jurisdiction, whether the offense charged is within the treaty and, by a somewhat liberal extension, whether there was any evidence warranting the finding that there was reasonable ground to believe the accused guilty."

To the same effect see *Bingham* v. *Bradley*, 241 U.S. 511, 516-17 (1916); *McNamara* v. *Henkel*, 226 U.S. 520, 523 (1913); and *Cleugh* v. *Strakosch*, 109 F. 2d 330, 333 (9th Cir. 1940).

Appellant contends that the decision of the Supreme Court in *Townsend* v. *Sain*, 372 U.S. 293 (1963) "represents a drastic departure from the rules which heretofore appeared to limit the power of Federal Courts to review factual determinations in habeas corpus proceedings." *Townsend* involved a habeas corpus Federal Court hearing in which the prisoner, who had been convicted following trial in the State Court, claimed a deprivation of rights under the Constitution of the United States. We believe

such case to be inapposite in the field of international extradition.

It is clear to us that the offenses set forth in the amended complaint are offenses defined and made punishable under the provisions of the Criminal Code of the Republic of Mexico, and are offenses set forth in the Extradition Treaty existing between the United States and Mexico.

The expert witnesses differed in their opinions as to whether or not Petroleos Mexicanos is an agency or authority of the Government of Mexico; whether or not its funds are public funds; whether or not its acts are governmental; and whether or not appellant as Superintendent of Petroleos Mexicanos in the District of Poza Rica was or was not a public officer.

Such conflicts were resolved by the Commissioner adversely to the contentions of appellant. The credibility of witnesses and the weight to be accorded their testimony are within the province of the Commissioner.

From our review the competent evidence of criminality in the record is sufficient to have justified, according to the laws of the State of California, appellant's apprehension and commitment for trial if the offenses set forth in the amended complaint had been committed in the State of California. The weight and sufficiency of the evidence was for the determination of the Commissioner. *Cleugh* v. *Strakosch, supra.*

The expert witnesses also differed in their opinions as to the period of the statute of limitations under the Criminal Code of the Republic of Mexico. The law appears to be well settled that in the absence of treaty provisions, the statute of limitations may not be raised in extradition proceedings. *Hatfield* v. *Guay*, 87 F.2d 358, at 364 (1st Cir. 1937); *First National City Bank of New York* v. *Aristeguieta*, 287 F. 2d 219, at 227 (2nd Cir. 1960).

Attention is called to the provisions of paragraph 3 of Article III of the Treaty, which provides that extradition shall not take place when the legal proceedings, or the enforcement of the penalty for the act committed by the person demanded "has become barred by limitation according to the laws of the country in which the requisition is addressed." The statute of limitations on Federal crimes in the United States is five years for non-capital offenses. *18 U.S.C. § 3282.* Section 799 of the Penal Code of California provides that there is no time within which a prosecution for the embezzlement of public monies and the falsification of public records must be commenced, and such prosecution may be commenced at any time after the discovery of the crime.

The record reveals that the appellant was relieved from his duties as Superintendent for Petroleos Mexicanos of the District Court of Poza Rica on December 28, 1958, and was apprehended in the County of Los Angeles, State of California, on February 1, 1960. The Commissioner did not err in concluding that prosecution of the offenses set forth in the amended complaint was not barred by the statute of limitations.

Finally appellant argues that he was denied due process of law and a fair hearing before the Commissioner because of the Commissioner's refusal to authorize the taking of depositions in Mexico.

It is to be noted that the proceedings against appellant were in the nature of a preliminary hearing, and the purpose of the proceedings was not to determine the guilt of the appellant of the offenses set forth in the amended complaint beyond all reasonable doubt but only to determine that the offenses had been committed and that there was probable cause for belief that the appellant committed them. It is also to be noted that appellant was permitted to testify in his own behalf and that there is in the record the testimony of two *live* witnesses from Mexico who gave

testimony on behalf of appellant. Appellant has cited no authority resting in the Commissioner to compel the taking of depositions in Mexico or, if authorized, that such order would have had any legal effect in Mexico. In seeking the order for the taking of the depositions appellant cites in the points and authorities submitted to the District Court, Rule 15(a) Federal Rules of Criminal Procedure, Rule 26 Federal Rules of Civil Procedure, 28 U.S.C. § 1781 and 18 U.S.C. § 3191.

Rule 15(a) provides for defense depositions under certain situations in the course of Federal prosecutions and provides that the appropriate motion must be made "after the filing of an indictment or information * * *." Such rule does not provide for the use of defense depositions at preliminary examinations. Furthermore, Rule 54(b) (5) of said rules provides that the said rules of Criminal Procedure "are not applicable to extradition and rendition of fugitives; * * *"

Rule 26, Federal, Rules of Civil Procedure provides for the taking of depositions in civil actions. Appellant cites no authority that such rule is applicable to the field of international extradition.

Title 28 U.S.C. § 1781 provides that a court of the United States may issue letters rogatory or a commission to take depositions in foreign countries. There is nothing in the record to indicate appellant requested letters rogatory of a court of the United States.

Title 18 U.S.C. § 3191 provides:

"§ 3191. *Witnesses for indigent fugitives*

"On the hearing of any case under a claim of extradition by a foreign government, upon affidavit being filed by the person charged setting forth that there are witnesses whose evidence is material to his defense, that he cannot safely go to trial without them, what he expects to prove by each of them, and that he is not possessed of sufficient means, and is actually un-

able to pay the fees of such witnesses, the judge or commissioner hearing the matter may order that such witnesses by subpoenaed; and the costs incurred by the process, and the fees of witnesses, shall be paid in the same manner as in the case of witnesses subpenaed in behalf of the United States."

It appears that the statute is designed to secure, on behalf of indigent fugitives, the attendance of resident witnesses at the hearing provided for by the provisions of 18 U.S.C. § 3184, and not witnesses residing in a foreign country since the attendance of witnesses residing in a foreign country would not be compellable by subpoenas. Furthermore, the statute requires the filing of an affidavit by the person charged, that he is not possessed of sufficient means and is actually unable to pay the fees of such witnesses. No such affidavit was filed in the instant case. See *Jimenez* v. *Aristeguieta*, 311 F.2d 547 (5th Cir. 1962).

Finally, in support of his contention that he was denied due process of law and a fair hearing by the Commissioner's refusal to authorize the taking of depositions in the Republic of Mexico, appellant cites many decisions of the courts of California wherein the rights of persons accused of crime in that state have been expanded in the pretrial and trial stages. Also cited are the following decisions of the Supreme Court: *Elkins* v. *United States*, 364 U.S. 206 (1960); *Jencks* v. *United States*, 353 U.S. 657 (1957); *Brady* v. *Maryland*, 373 U.S. 83 (1963). In our view the principles set forth in the cases relied upon are not applicable to a preliminary examination in an international extradition case. See *Oteiza y Cortes* v. *Jacobus*, 136 U.S. 330 (1890).

The order appealed from is affirmed.

(Endorsed) Opinion Filed December 14, 1963.

Frank H. Schmid, Clerk.

APPENDIX C

Notice and Motion to Take Depositions and Affidavit in Support Thereof

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA
CENTRAL DIVISION

In the Matter of the Extradition of

JAIME J. MERINO,

A Fugitive from the Justice of Mexico

Notice of Motion

To: LAUGHLIN E. WATERS, *United States Attorney.*

To: ERNEST A. LONG, *Assistant United States Attorney.*

You and each of you please take notice that on May 5, 1960, before the Honorable Theodore Hocke, United States Commissioner, Southern District of California, Central Division, Jaime J. Merino, by and through his counsel, will move the said Commissioner for an order authorizing the taking of depositions.

This Motion will be based on the records and files in the above-entitled cause, the instant Notice of Motion, the Motion attached hereto, the Affidavit attached hereto and the Points and Authorities attached hereto, in addition to any and all matters which shall be presented at the time of the hearing on said Motion.

Respectfully submitted,

SHEELA, O'LAUGHLIN & HUGHES

By /s/ PETER J. HUGHES
Peter J. Hughes

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA
CENTRAL DIVISION

In the Matter of the Extradition of

JAIME J. MERINO,

A Fugitive from the Justice of Mexico

Motion

Jaime J. Merino, in the above-entitled cause, by and through his counsel, hereby moves the Honorable Theodore Hocke, United States Commissioner, Southern District of California, Central Division for an order authorizing the taking of depositions of the parties whose names are set out in the Affidavit of Barton C. Sheela, Jr., attached hereto.

This Motion is based on the records and files in the above-entitled cause, the Notice of Motion attached hereto, the instant Motion, the Affidavit attached hereto, the Points and Authorities attached hereto and any and all matters which may be presented at the time of the hearing on this Motion.

Respectfully submitted,

SHEELA, O'LAUGHLIN & HUGHES

By /s/ PETER J. HUGHES
Peter J. Hughes

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA
CENTRAL DIVISION

In the Matter of the Extradition of

JAIME J. MERINO,

A Fugitive from the Justice of Mexico

Affidavit

BARTON C. SHEELA, JR., being duly sworn, deposes and says:

1. That he is an attorney licensed to practice in the State of California.

2. That he, along with John F. O'Laughlin and Peter J. Hughes, represents Jaime J. Merino in extradition proceedings currently pending in the Federal District Court, of Los Angeles, California.

3. Affiant states that he, along with co-counsel, have examined the Mexican Government's requisition for extradition of this case along with the supporting documents and affidavits and that they have determined that the charges against the said Jaime J. Merino brought in Mexico, stem from three groups of transactions as follows:

1. That allegation that Jaime J. Merino caused certain "ghost" contracts to be written for the construction and painting of two gas holders (tanks).

2. That Jaime J. Merino caused to be issued certain contracts for work which was not done and work which was improperly done and work which was done in part with equipment and personnel supplied by PeMex Corporation, as distinguished from the contractor, without deductions from the price paid to the contractor.

3. The contracts which were initiated between PeMex by Engineer Jaime J. Merino and Manuel Porcel Blanco for

the construction and readjustment of certain water lines and the purchase of the supplies necessary to carry out the contracts, are alleged to have been done with equipment, personnel and materials loaned by PeMex Corporation. The statement that this work was done under Jaime J. Merino's orders and that the money was drawn by the contractor from PeMex Corporation, returned to Jaime J. Merino, who in turn used it to pay the traveling expenses of the PeMex Corporation basketball team.

That affiant states that it is necessary to obtain an order of the United States Commissioner to take the depositions of the witnesses later named in this affidavit for the following reasons:

1. That absent some order of the Commissioner authorizing the taking of depositions of the people named, affiant, his co-counsel and his representatives would be mere interlopers in Mexico and would have no apparent authority to appear in the Mexican courts or before Mexican judicial officials for the purposes of taking depositions of the necessary and material witnesses in this matter in a form which would be admissible in evidence before the Commissioner.

2. Affiant states that if the United States Commissioner were to make such an order, the Mexican Government and its judicial officials interested in the extradition of Jaime J. Merino would give affiant, his co-counsel and representatives in Mexico standing to take such depositions so as to produce said evidence in this hearing.

3. Further affiant is informed and believes that some of the witnesses later named in this affidavit are in the custody of Mexican authorities.

Affiant states that the following named persons' testimony is necessary and material in Merino's defense to the charge of the embezzlement of public funds by a public officer or by a depository of public funds and the falsifica-

tion of official records or acts of public authority in connection with the construction and painting of the gas holders and Jaime J. Merino can not safely go to hearing without the evidence of the following:

1. Pedro Pora, James Ruthrot, Guillermo Vasques Ponce, Fidel Meza, Cutberto Castillo, all who reside in Poza Rica, Vera Cruz, Mexico, and will testify to the following:

(a) That the cost of Amercoat paint was in excess of the total value of the contract awarded for the painting of the tanks.

(b) That the paint was imported from the United States exclusively by the PeMex Corporation in Poza Rica.

(c) That the tanks in question were prepared and constructed in accordance with the contracts and that the best known tank construction foreman, Ladislao Gallegos, and his personnel were employed and use in the performance of said contract.'

Fidel Meza will also testify and identify documents on file at PeMex that show the purchase of Amercoat paint and the cost price of such paint. Further that no contractor would be able to submit the bid for the painting of said tanks at the price listed in the Mexican Government's demand for extradition.

2. Jose Penafiel who resides in Poza Rica, Vera Cruz, Mexico, who will testify that the tanks or gas holders were constructed in accordance with the plans and specifications of the contracts by tank foreman, Ladislao Gallegos and his personnel, and that Mr. Gallegos is one of the better known tank constructors and contractors in Poza Rica.

3. Ladislao Gallegos of Poza Rica, Vera Cruz, Mexico, who will testify to the names of all workers who were employed by him in the construction of said gas holders and the amounts paid by him to construct the tanks and the

amounts received by him to construct the tanks in accordance with the contracts that were awarded to Carlos Osornio by Petroleos Mexicanos (PeMex).

4. CARLOS OSORNIO, who is incarcerated at the City Jail, Tuxpan, Vera Cruz, Mexico, who will state that threats and promises were made against him by PeMex officials and Government officials which caused him to make the false statement against Jaime J. Merino.

In connection with the charge that Jaime J. Merino embezzled public funds and falsified records in connection with the contracts made with the Oil Workers Union, District 30 representatives, the testimony of the following witnesses is material to the defense of Jaime J. Merino who can not safely go to the hearing without such evidence.

1. JOSE MARIA CARDENAS, who resides at Avenida 2 Norte, #19, Poza Rica, Vera Cruz, Mexico and Tomas Galindo, Poza Rica, Vera Cruz, Mexico, who will testify that the highest authority of PeMex (all superiors to Mr. Merino) ordered Mr. Merino to help the Oil Workers Union syndicate to form a contracting corporation made up of Union members and that the profits from the contracting business were to be paid into the Union treasury. They will further testify that the contracts entered into by PeMex with the syndicate of workers from the Oil Workers Union, District 30, caused the saving to PeMex of at least 75% of its labor costs and they will further testify that all of the pipe line contracts with the Oil Workers Union syndicates were fulfilled.

2. THE TREASURER of the Oil Workers Union, Section 30, who will state that each and every contract entered into by the Oil Workers Union was in fact entered into for and on behalf of the Oil Workers Union. That the Oil Workers Union received the total amounts shown on these contracts and that the Oil Workers Union never returned

any of the monies received for the benefit of any person other than members of the Oil Workers Union.

3. THE CUSTODIAN of the records of the Oil Workers Union, District 30, who will identify:

(a) The minutes of the Oil Workers Union, District 30, Poza Rica, Vera Cruz, which reflect the meetings at which the contracts entered into by the syndicate of the Oil Workers Union were approved by the membership of the Oil Workers Union, Section 30.

As to the charges that Jaime J. Merino made false documents and embezzled public monies in connection with contracts involving water lines for the purpose of benefiting the PeMex Corporation basketball team, the testimony of the following witness is required and material to Merino's defense and he can not safely go to the hearing without such evidence.

(a) ROBERTO TAYLOR, who is domiciled at the Palacio Muncipal de Poza Rica, Vera Cruz; Agustin Garcia, Colonia Herradura Campo de Poza Rica, Vera Cruz; Hernando Zamora, Queretaro #200, Mexico City, D.F., Mexico; Rogelio Villegas Flores, Magon #312, Colonia Tajim, Poza Rica; Alvaro Ramirez, Independencia #309, Colonia Manuel Avila Camacho, Poza Rica, Vera Cruz; Manuel Montes de Oca, Uruguay #114, Colonia Merino, Poza Rica; Raul Melo, Av. 8 Norte, #18 Col. Obrera, Poza Rica; Ignacio Renteria, Colonia Loma Bonita, Campo de Petroleos, en., Poza Rica; Arturo Escalera, Cancha Antonio J. Bermudez, Poza Rica; Horacio Estrada Av. 4 Norte #9 Colonia Obrera, Poza Rica; Dr. Ernesto Aracen, Colonia Loma Bonita #3 Campo Petroleos, Poza Rica; Gregorio Franco, Constitucion #706 Col. Tajim, Poza Rica; Daniel Cuevas Nino, Domicilio conocido Poza Rica, Rafael Palacios Ramirez, domicilio conocido, Poza Rica; Ricardo Zurita, domicilio conocido, Poza Rica; Juan Salas, domi-

cilio conocido, Poza Rica; Fernando Rojas, Popotla #20, Tacuba, D.F., Noe de la Cruz, Avenida 2 Norte #9, Poza Rica; Perulo de la Cruz, Avenida 2 Norte #9, Poza Rica; Hector Ligas, domicilio conocido, Poza Rica; Alonso Ramirez, domicilio conocido, Poza Rica; Jose Madrigal, domicilio conocido, Poza Rica, who will state that they were members of sports teams of the oil workers of Poza Rica and all their expenses as members of the sports teams were paid by Petroleos Mexicanos.

(b) Alfonso Zunzuneguie, who will state that only 150 pesos per year were allocated into the budget of Petroleos Mexicanos for the benefit of the recreational and sporting activities of the oil workers in the Poza Rica area. He will further testify that it was authorized and accepted practice by all of the resident supervisors of PeMex and the various oil fields and oil camps and for the headquarters athletic teams to spend sums far in excess of the amount allowed in the budget. That it was accepted practice and was ordered by the superiors and the highest authority in PeMex that the recreational activities such as the PeMex Corporation basketball team, the PeMex baseball teams and the oil workers sporting teams all be supported by funds saved or appropriated from other contracts and appropriations of the PeMex budget;

(c) Mario Nolivos and Agustin Espinoza who were members of the Petroleum Union, Section 30, and who reside in Poza Rica, will testify that Mr. Merino's duty was as resident superintendent of the plant at Poza Rica. That one of his duties was to act as coordinator and to conduct the recreational activities of PeMex employees and the union laborers.

(d) Bimbo Villegas, Becerril Fernandez and Bernardo Lopez, who will testify that they were members of sporting teams sponsored by PeMex and the Oil Workers Union in districts other than Poza Rica and they will state that

the expenses and wages were paid in these other districts by Petroleous Mexicanos in the same manner and fashion as they were in Poza Rica.

As to all three charges of embezzlement and falsification of records of public authority or public records, the testimony of the following witnesses is material to the defense of Jaime J. Merino and he can not safely go to the hearing without the following evidence:

1. Raul Govea Mena, who is incarcerated at the City Jail, Tuxpan, Vera Cruz, Mexico, who will testify and give the names of persons who are currently in custody at the City Jail, Tuxpan Vera Cruz, and who were present when Carlos Osornio was coerced and pressured to give false evidence against Jaime J. Merino.

2. Alfonso Ortuno, who is also incarcerated at the City Jail, Tuxpan, Vera Cruz, Mexico, who will testify to the names of other individuals who were present at a time when he was coerced into giving false statement against Jaime J. Merino.

3. Juan Crisostomo Robles Ramirez and Gustavo Monzon and Engineer Jose Luis Mejia, all of Poza Rica, who will testify as to the manner in which certificates of payment were made by PeMex in connection with the contracts mentioned in this extradition and all contracts. They will further testify that the certificates of payment were not formulated or originated by Engineer Jaime J. Merino and that Engineer Merino only signed said certificates of payment after three signatures had been placed on the document prior to his signature and that the signatures of the prior signers were to indicate to the resident superintendent that the document was in accordance with the terms of the contract for which the payment was being made.

4. Carlos Lopez Mata of Primera Poniente and Sexta Norte in Tapachula, Chiopax, Mexico, as well as Juan

Vara Orozco, whose address is house number 23, interior of the field of Petroleos Mexicanos, and Gustavo Monzon, who is at present incarcerated in the City Jail, Tuxpan, Vera Cruz, Mexico, as well as Carlos Lorenzo, whose address is the interior of PeMex camp, Poza Rica, who will testify that the contracts were not formulated by Jaime J. Merino. That the contracts were all formulated by Mr. Del Valle, a representative of the central control office of PeMex in Mexico City, who was in Poza Rica as a representative of that office, whose job it was to make and supervise all contracts involving more than 10,000 pesos. That said Del Valle was not a subordinate of Mr. Merino but was independent of him and was a watch dog of the treasury of PeMex stationed at Poza Rica. That he supervised and signed all contracts and that his signature was always placed on said contracts prior to the time they were submitted to Jaime J. Merino for signature. That in the event the expenses were greater on any contract than planned, Del Valle consulted with the head of the Construction Department in Mexico City or with the Manager of Exploitation in Mexico City, and if those officials approved the contracts, he ordered the amendments in the standard "machotes" which were signed in his office by approximately six persons before they were submitted to Engineer Jaime J. Merino for signature.

Carlos Lopez Mata will also state that he prepared lists of work and sent these lists to the various contractors who submitted bids. That the bids were received by him and that the bids received were discussed with Engineer Merino and that the successful bidder was chosen by them and awarded the job.

5. Jose Maria Cardenas, who resides at 2 Norte 19, Poza Rica, as well as Rutillo Torres who resides in Guadalajara, Jalisco, Mexico, will state that the contractors were not chosen arbitrarily by Mr. Merino because Lopez Mata, head of the Building Department sent out a list of work to

contractors who submitted bids. That the bids were discussed by Merino and Lopez Mata and were chosen by both as to their ability to perform.

6. Alberto Lazo, Vallarta No. 1, Office No. 9, who will testify as to the names of persons who know the circumstances under which Carlos Lopez Mata was coerced to give false statements against Mr. Merino.

7. Carlos Osornio who is incarcerated at the City Jail, Tuxpan, Vera Cruz, Mexico, who will testify that the statements that he gave against Jaime J. Merino were false and he will also testify as to the threats and promises which caused him to make said false statements incriminating Jaime J. Merino.

8. The custodian of the following records who will establish the existence of the records and exemplify copies thereof:

(a) Custodian of the Dairo Oficial de la Federation to establish the authenticity of said Dairo Oficial de la Federation as to the following dates:

November 25, 1936; August 24, 1939; April 29, 1942; December 2, 1944; January 31, 1948; November 29, 1953. The said documents will indicate the events which will describe the legal character and status of PeMex, and its employees and will show that PeMex is not a branch of the Government, it is not a public authority and that its employees are not public officials, and that the funds it controls are not public funds.

(b) The Custodian of the Presidential Decree of June 7, 1938, which identifies the legal status of PeMex, of its funds and its employees, and which also establishes that the status of PeMex is not that of a public agency or a public authority and that its funds are not public funds and its employees are not public officials.

(c) The Custodian of the Federal Budget of the Republic of Mexico for the years 1939 to 1960, to identify

the budgets which show the legal status of PeMex, its funds, its sources of funds and the nature and legal status of its employees.

Further affiant sayeth not.

Respectfully submitted,

BARTON C. SHEELA, JR.
Attorney for Jaime J. Merino

Duly subscribed and sworn to before me this ——day of April, 1960.

Notary Public in and for the County of San Diego, State of California